

# Pennsylvania Township News

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## HOW TO MANAGE YOUR TOWNSHIP RISK

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**CROSS YOUR FINGERS**  
and Hope for the Best









# MANAGING RISK

**AWARENESS AND AN EMPHASIS ON  
SAFETY** Can Keep Your Township  
from Becoming a **LIABILITY TARGET**

BY AMY BOBB / ASSISTANT EDITOR

**DOES YOUR TOWNSHIP HAVE A RISK MANAGEMENT  
PLAN IN PLACE,** or are you simply crossing your fingers and

hoping for the best? Don't take a chance at risk. Develop an effective risk management program that will keep employees and the public safe while protecting your township from costly lawsuits and workers' compensation claims.



**E**very morning before heading out to work, the public works crew at Perry Township in Fayette County holds a quick safety meeting.

“We go over the jobs for the day, what they may encounter, and how they can stay safe,” supervisor A.J. Boni says.

The conversations may range from staying hydrated and avoiding ticks in the summer to walking like a penguin to avoid falls on ice in the winter.

“What we really are doing is reminding them to use common sense,” he says. “We want everyone to go home that night in the same condition they arrived that morning.”

Perry Township’s safety talks have a lot in common with a good risk management plan. They both aim to create a culture of safety and well-being, and they rely on some rather practical advice to get there: Be proactive and practice safety every day.

“The best way to prepare for the unexpected is to continually look inside your own operations and make sure everyone is paying attention to what they are supposed to be doing,” says Rick Atkinson, senior vice president of HUB International.

One of the worst things a township — or anyone, for that matter — can do is become complacent, he says.

“Because when you become familiar



With regular talks and reminders, employees are more apt to keep safety at the forefront of everything they do.

with something, you often stop paying attention, and that’s when bad stuff happens,” he says.

His advice: Pay attention, focus on safety, and develop policies, plans, and procedures to minimize and manage risk.

### Be proactive

When it comes to risk management, Betty Randzin, manager of Wallace Township, Chester County, quotes an adage her father used to say: “Prevention is better than the cure.”

It’s advice her township follows.

“We try to be proactive and make sure the township and its residents are protected,” she says.

Take the many events held within the township, from summer bike races to the annual holiday tree lighting. For each event, township officials consult their solicitor and insurance agent and

think through all the ramifications.

“What we try to manage is the intersection between the public and the township,” Barbara D’Angelo, chair of the board of supervisors, says. “Whether that intersection is on a road, at an event, or in the township office, we want to understand what is happening and what could happen and put in place the mechanisms to keep everyone safe and protected.”

Rather than blindly moving ahead with a new idea or event, she says, the township and its consultants will review the inherent risks and weigh them against the benefits of proceeding.

“Instead of rubber stamping an event, we take a proactive look at what it will mean for the township,” solicitor Mike Crotty says. For a bike race, for example, the township will review the insurance coverage of the sponsoring group, send the roadmaster to check for potholes and other problems on the roads, and enlist the fire police to control traffic at intersections.

“We want to make sure liability for the event is not shifted to the township,” he says.

“We want **everyone to go home that night** in the same condition **they arrived that morning.**”

# **“If you make safety a part of your operations, just like you run anything else, it becomes a way of life.”**

If the risk of an event or activity seems too great, the township may ultimately decide not to proceed, which is what happened several years ago when the supervisors rejected the idea of a skatepark because not enough protection could be provided to the township and the skaters.

“We may overthink things,” D’Angelo says, “but it’s better to do that than not to think at all.”

## **Identifying risks**

Township supervisors are responsible for the health, safety, and welfare of residents. They also want to protect their employees. Keeping both groups safe while reducing costly liability or workers’ compensation claims is the focus of a good risk management plan.

“The goal of a municipality is to keep the public and its employees safe from harm,” Bill Raab, director of risk control at Glatfelter Public Practice, says. “That encompasses everything from keeping a sidewalk safe to protecting employees with properly maintained equipment to training law enforcement on implicit bias.”

Managing risk begins with awareness. While part of risk management is reactive — reviewing claims to determine what went wrong and how to prevent a recurrence in the future — townships are best served when they are

proactive and head off problems before they happen.

“You want to address issues as early as you can,” Crotty, who is a partner with the Chester Springs law firm of Siana Bellwoar, says. “Things will always come at you from left field that you are not prepared for, but you want to be as ready as you can, evaluate any liabilities that are out there, and plan accordingly.”

He advises townships to take advantage of budget talks and new-year planning, which many townships are engaged in now, to conduct an annual audit of potential risks in the township and prioritize what to address. Ultimately, the audit should look at facilities, property, events, and employment issues.

Risk management should be integrated, day in and day out, into a township’s operations, Raab says. It begins with understanding your risks.

“Even before you put policies and procedures in place, you must identify your risk as an organization,” he says. He recommends townships use a guideline, such as the International Organization for Standardization (ISO) 31000 Standard for Risk Management. Insurance and loss-control agents can also provide guidance or resources for identifying and addressing risk.

When developing a risk management plan, Rick Mathews, assistant risk

manager of Municipal Risk Management, Inc., acknowledges that townships have time and money constraints. MRM is a PSATS-endorsed property, liability, and workers’ compensation insurance trust.

“You have to be reasonable,” he says. “Look for things you can do with your limited resources that will have the most impact in keeping employees and the public from getting hurt. Often, townships first look at claims they already have, and that’s not a bad place to start.”

To get the process rolling, a manager, secretary, or possibly a supervisor must step up and take responsibility for overseeing risk identification and correction.

Townships should also turn to their team of consultants, including insurance agent, risk manager, and solicitor, for expert advice. Insurance carriers and risk managers can help to identify potential problems by auditing the community and notifying officials of liability trends and protections.

“One of the first things I would suggest is having a conversation with a loss-control or safety professional from your insurance agency,” says Atkinson, an insurance broker for the HDH Group,

**The risk management process should be integrated into a township’s operations at a strategic level. ▼**





# MANAGING RISK

which provides insurance and administrative services to local governments through MRM, Inc.

Likewise, townships should rely on the advice of their solicitor, whose job it is to protect them from liability.

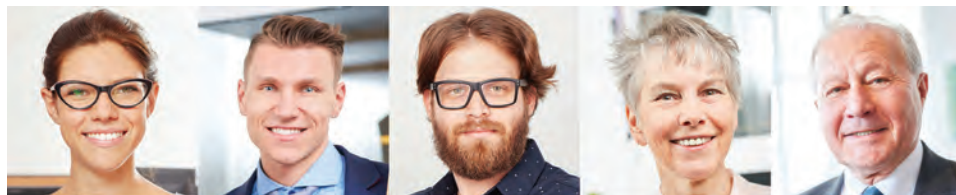
“Your solicitor should raise a red flag on any issues that could leave your township exposed to unnecessary risk,” Chris Gerber, a partner with Siana Bellwoar, says.

## Improving the bottom line

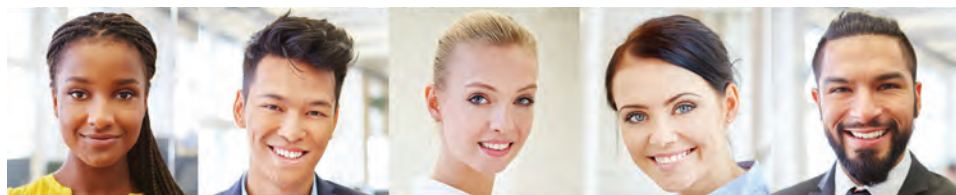
Since hiring a loss-control consultant three years ago, safety has become a priority in Hampton Township, Allegheny County, and workers’ compensation claims have subsequently decreased.

“We had just come off of two bad claims and were looking for ways to reduce our exposure,” manager Chris Lochner says about the decision to hire Optimus Risk Services as a contracted safety consultant.

The supervisors agreed to give the service a try for two years, and that decision has been worth the price of the contract, he says. At least once a month, loss-control consultant Karen Beck visits the township and walks



**“You can’t be everywhere in the township. Your residents are your extra set of eyes and ears out in the community.”**



through facilities, such as the swimming pool or a park, in search of potential problems, meets with the township’s safety committee, or arranges training for employees.

“We don’t have as many little bumps in the road anymore because she has come in and caught things that have made a difference,” Lochner says. “She functions as a second set of eyes that is independent of our organization and sees things that we may be too close to have noticed. She is very thorough.”

Many times, her suggestions may seem minor, such as adding “HOT” stickers to the burners in the pool concession stand or teaching the public works crew to apply a poison ivy barrier to their hands and clothes before

cutting trees, but they have resulted in significant benefits.

“Poison ivy used to be an endless problem with our workers,” Lochner says. “Now, I don’t know when we last got a poison ivy claim. She takes something that seems insignificant and brings it to the forefront so we pay attention to it.”

And, he says, those little changes add up to big savings. The township has watched its workers’ compensation premiums drop by nearly a third — from roughly \$320,000 to \$240,000 next year — since contracting with Beck.

“Our claims are way down, and we are also seeing stability in general liability across the board,” Lochner says.

Perhaps, most important, safety has become a lifestyle for the township, and that translates into safer, healthier, and happier employees.

“Safety is now front and center among our staff, and they are taking the necessary steps to protect themselves and each other,” he says. “If you make safety a part of your operations, just like you run anything else, it becomes a way of life. We are changing behavior, and we are seeing results.”

## Eyes and ears everywhere

Outside experts can provide invaluable expertise and a critical eye to help reduce risk, but townships should also look for help from those on the frontlines.

“Day to day, week to week, month



**By conducting audits of operations and facilities, townships may be able to head off problems before they occur.**

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to month, your most valuable resources are the people with their eyes on the ground,” Mathews says. “Your constituents, business owners, and employees are your biggest resource. They see and experience things at different times of the day, such as when roads are busy or not and parks are full or empty. Pay attention to what they observe and don’t ignore their comments.”

Getting input from the bottom up helps to create a culture where everyone is thinking about risk and how to minimize it.

“Too often, people think that risk management is something someone else does,” Raab says, “when, in fact, it’s something we all need to do and be thinking about.”

**“No one knows the business of a municipality better than you and your employees.”**

The key is to observe, listen to suggestions, and act accordingly.

“No one knows the business of a municipality better than you and your employees,” Atkinson says. He recommends that risk assessment be conducted routinely and regularly by everyone at the township.

“It’s the person with the boots on the ground who can see what is happening,” he says. “During performance reviews, for example, look at the risk management that each employee has responsibility for and ask them what doesn’t feel right from a safety or operational standpoint.”

Also, pay attention to public comments and suggestions.

“You can’t be everywhere in the township,” Atkinson says. “Your resi-

dents are your extra set of eyes and ears out in the community.”

Just remember that once you receive a complaint or are notified about a condition, you have a responsibility to address it.

“The law protects you from things you don’t know, but once you know them, you have lost your legal protection from liability,” he says.

One of the most effective ways for a township to manage risk is through a safety committee made up of various township employees. The committee, if certified through the state Department of Labor and Industry, can save money with a potential 5-percent return on workers’ compensation insurance premiums (*see the box at left*) and also help to bring safety to the forefront of daily operations.

“A safety committee provides an avenue for organizing your township’s safety goals and objectives and keeping track of progress,” says Beck, who helps local governments establish such committees as part of an overall risk management approach.

One of the first things she did when hired as a consultant at Hampton Township, Allegheny County, was to set up a safety committee of representatives from different departments, including police, sewage, public works, and recreation. The group meets monthly to talk about operations and training that will help protect the township’s 61 full-time and 150 part-time employees.

Thanks to the committee’s work, employees are learning how to be healthy and safe, manager Lochner says, whether it’s because of advice on how to quit smoking, reminders to stay hydrated, or training on proper flagging procedures.

“A lot of times, employees may not understand why we do things a certain way until they become educated on it,” he says. “By putting these ideas into their heads, we are developing healthier employees.”

## SAVING \$\$ with safety committees

Townships that set up a safety committee and get it certified through the state Department of Labor and Industry (L&I) can improve workplace safety while saving 5 percent on commercial workers’ compensation insurance premiums. According to L&I, more than 11,500 employers have certified safety committees, saving them more than \$645 million in insurance premiums.

To be certified by the state, the committee must have at least two employees and two management representatives and have been in operation at least six months. Other requirements include holding monthly meetings; training members in safety committee operation, hazard inspection, and accident investigation; and keeping meeting documentation, such as agendas, attendance lists, and minutes.

To learn more about safety committees, talk to your

workers’ compensation carrier or go to [dli.state.pa.us](http://dli.state.pa.us) and choose “Workers’ Compensation” under the “Services and Information for Employers” heading. Then under “Workplace and Community Safety,” click on “PA Workplace Safety Committee Certification Program.”

**Note:** Although self-insurance pools are not eligible for the 5-percent discount, they offer other benefits. Municipal Risk Management Inc., for example, provides annual dividends and since its inception, has returned more than \$129 million to its municipal members.





# 10 TIPS

## for cutting your workers' comp and property liability premiums



Public safety should be a top priority of every township, Rick Mathews of Municipal Risk Management says. Here are some of his tips for improving safety and reducing liability:

**1) Listen to your residents, your business owners, and your employees** about potential accidents waiting to happen and how to avoid them.

**2) Earn a reduction in your workers' comp** by setting up a safety committee and getting accredited through the state Department of Labor and Industry if you purchase your coverage from a commercial carrier.

**3) Develop a comprehensive list of doctors** to make sure employees are treated by high-quality providers and will not be sent back to work until they are ready. Costly workers' comp claims occur when an employee rushes to return to work only to suffer a new injury, Mathews says.

**4) Set up wellness programs for employees** to encourage healthy habits, such as taking a lunch break every day and moving away from their desk every hour to stretch and walk around.

**5) Pay attention to things in the work environment that are often overlooked**, such as providing ergonomic chairs and vehicle seats that offer the right support.

**6) Seek out training** for new equipment and tools and establish safety practices for all employees.

**7) Don't scrimp on safety for the road crew.** Reflective vests, safety tape, proper work zone markings, and LED flares are some of the ways to get motorists' attention.

**8) Ask the township's liability insurer** to assess potential risks. In particular, Mathews says, road design claims are common and should be corrected when practical.

**9) Have township staff periodically inspect each other's departments** and point out potential hazards. A fresh set of eyes can help eliminate risks that others just don't see.

**10) Talk to your neighboring townships and boroughs** to find out what they are doing to minimize the frequency and severity of losses.

**"Prevention is better than the cure."**

Several years ago, when Kim Milane-Sauro worked for West Bradford Township, Chester County, she served as the secretary of the township's safety committee. She found the group's work so worthwhile that she wants to establish a similar committee at West Caln Township, where she became assistant township manager six months ago.

"I can see how having a safety committee would help our employees, espe-

cially those in public works, who face hazards every day that we may not even realize," she says.

Once established, West Caln's safety committee will meet monthly to review incidents and near misses, inspect township facilities, perform safety checks, and schedule training for employees. After six months of work, the committee plans to seek certification from the state and then a correspond-

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**“Too often, people think that risk management is something someone else does, when, in fact, it’s something we all need to do and be thinking about.”**

ing 5-percent discount on workers’ compensation insurance, all of which adds up to a win-win for the township, Milane-Sauro says.

“We have fire, police, road maintenance, parks, and township staff who will benefit,” she says, “and the township can save money. It just makes sense.”

### Managing employees

Because a township has many moving parts, managing risk may seem daunting at times. To help provide clarity, experts recommend focusing efforts on employees, who are the common denominator in much of what a township does.

Following is some personnel advice that can help to minimize a township’s risk:

- **Hire the right people for the job.** “I call it managing the front door,”

Beck says. “Know who you are hiring and control your risk by getting out in front of issues.”

The demands of public works jobs, for instance, require healthy, able-bodied employees, she says. “Do you really want to hire someone with a pre-existing back injury if they can’t fulfill the lifting requirements of the job?”

She suggests background checks and drug and alcohol testing as part of the employment process. She also recommends being proactive on health issues. For example, police officers and public works employees who may be exposed to sewage or bodily fluids should get hepatitis B immunizations.

- **Ensure that your employees understand their job.**

“Every position should have a job description that is compliant with the law and shows the proper chain of com-

mand,” attorney Gerber says. “These personnel documents provide a road map of the role of employees.”

Be sure employees understand what is expected on the job and encourage them to ask questions.

“Document that they understand and put proof in their personnel file,” he says. “That way, if you are sued, you can show that information was presented properly.”

Perry Township, Fayette County, maintains a record of the safety talks it holds, and this proof of training could come in handy if a worker ever gets hurt and files a claim.

“Our standard township procedure is for workers to wear chaps for protection when running a chainsaw, and our employees know that,” board chairman Boni says. “If someone doesn’t wear them and gets hurt as a result, we can ask why he wasn’t following procedure.”

- **Also, make sure elected officials have a handle on issues that could put a township at risk.**

“It is the role of the board of supervisors to delegate, not abdicate, so they must be aware of what’s going on and understand their obligations,” Gerber says. “Have there been complaints of harassment or discrimination? Are you familiar with the buzzwords in the news lately?”

Find out by talking to the manager, the police chief, and the solicitor, he advises.

“The buck stops with the elected officials,” he says. “Don’t put your head in the sand.”

- **Develop operational checklists, policies, and procedures.**

“If you want to reduce your workers’ comp expenses and keep employees safe, take a good look at procedural manuals across the board,” Mathews says.

These written policies will help employees know the proper way to execute tasks.

## Responding to claims

Despite your best efforts at risk management, an employee may get hurt on the job, or a lawsuit may be filed. If that happens, do you know what to do?

Anytime a claim or lawsuit is filed or a situation occurs that looks like it might rise to a claim or lawsuit, it should be **immediately communicated to your insurance carrier and solicitor.**

“When an employee tells you he’s been hurt, you have the legal duty to report it to your insurance carrier, period, end of story,” Rick Atkinson of HUB International says.

Once a claim is reported, it becomes the responsibility of the insurance company to see it through to its end result, whether that means paying out money, denying the claim, or entering litigation.

Here’s some other helpful advice when faced with a claim or lawsuit:

- **Send all relevant documents** as quickly as possible to your solicitor and insurer, including copies of the claim or lawsuit papers.
- **Watch your words.** Be careful not to make any irresponsible remarks to the news media or residents that could incite discord or litigation.
- **Do not assume or imply responsibility** for any property damage until the insurance adjusters have concluded their investigation.
- **Act as soon as possible** to protect the public or employees from any further damage or dangers.

**“Education is cheap.  
Claims are not.”**



"It's important that everyone understand their job and that a peer review is in place to make sure jobs are done right and no shortcuts are taken," Atkinson says. "It's the little things, like the routine maintenance that isn't done on a piece of equipment or a building system or an extra signature that you need on a contract, that will get you into trouble."

The police manual in Uwchlan Township, Chester County, is filled with policies and procedures to provide guidance to the township's 22 officers.

"It's voluminous," manager Doug Hanley admits.

However, in today's litigious society, it pays to be thorough. Recent headlines have drawn attention to the need for standards that address tactics and behavior. To protect itself, Uwchlan watches policing trends, including such hot-button topics as pursuit, implicit bias, or use of cameras.

"It's why we have solicitors and why the manuals are as thick as they are," Hanley says.

The township also makes sure the manual is a working document. The solicitor helps to keep it up to date, and officers are regularly trained.

"It doesn't just sit on a shelf," he says. "We visit it on a regular basis."

• **Make sure employees are properly trained.**

"You want to be sure your employees are adequately trained in safe work habits," Beck says. She recommends, for example, that anyone working on roads receive flagger training, and she encourages townships to follow the guidelines established by the federal Occupational Safety and Health Administration (OSHA) even though Pennsylvania is not an "OSHA state." (*It does not have a federally approved occupational safety and health regulatory program.*)

From webinars to online courses to old-fashioned workshops, employees have never had so many education options, and townships can access them through a variety of resources, including PSATS, PennDOT LTAP, equipment manufacturers, insurance carriers, and consultants.

Even something as simple as "toolbox talks," short and more frequent lessons focused on a procedure, piece of equipment, or specific tool, are a proven method for

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safety training. Uwchlan Township's public works department, for example, holds toolbox discussions monthly, in addition to training its employees on other important topics, such as traffic control, trench

safety, and fire training.

The bottom line? Training can make a difference.

"Education is cheap," Mathews says. "Claims are not."

## When can a township be sued?

Thanks to the Pennsylvania Political Subdivision Tort Claims Act, local governments enjoy some immunity from litigation. However, there are eight exceptions in the law that leave municipalities open to liability.

These are in the areas of motor vehicles; the care, custody, or control of others' personal property; real property; trees, traffic controls, and street lighting; municipal-owned utility service facilities; streets; sidewalks; and animals in the control of the municipality, such as police dogs.

Although the law caps damages at \$500,000 per occurrence, cases continue to make their way through the courts seeking to lift that lid and allow for higher damage awards.

Most recently, in *Zauflik v. Pennsbury School District*, the state Supreme Court upheld the half-million-dollar cap after a jury had originally returned a verdict of more than \$14 million for the plaintiff, who had suffered catastrophic injuries in a bus accident on school district property.

Currently, attorneys are keeping an eye on two Philadelphia cases that also challenge the damages cap.



## Learn from mistakes

Sometimes, despite its best efforts, tragedy strikes, and a township finds itself in court.

Several years ago, the unthinkable happened in Perry Township, Fayette County. During overnight torrential downpours, a rural road washed away, opening up a hole 36 feet wide and 100 feet long. In the early-morning hours, a resident drove his vehicle into the hole and was killed.

"It was our first lawsuit involving a loss of life," says supervisor A.J. Boni, who also serves as PSATS second vice president. "As township supervisors, it is tough. We are a small community, and we know our residents and families."

The township is still unsure of exactly what went wrong that night. It's possible a large piece of debris, maybe a tree, plugged up the 55-inch pipe under the road, resulting in a buildup of water pressure that eventually carved out a 27-foot-deep drop-off.

"We couldn't find the pipe, and to this day, I don't know what happened to it," Boni says.


Still, the township tried to learn from the incident and made necessary changes to the reconstructed road, including adding lights and reconfiguring the design so that debris would be pushed away in a rainstorm.

Learning from mistakes is yet another important part of risk management.


"When you have a claim or loss, you want to drill down and figure out what happened and what you can do to prevent a next time," Atkinson says.

When it comes to managing risk and reducing claims, there really is no magic button, Mathews says. Observe, ask questions, seek advice, and be proactive to prevent incidents and injuries from occurring in the first place.


"Simply pay attention and do your best to prevent what could happen," he says. "The townships that are most successful are those that buy into the notion of limiting the frequency of loss and the severity of exposure and are willing to do something about it." ♦



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